

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) YOR92 0010520US1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 09/993,625	Filed 08/21/2001
First Named Inventor Clatchick BISDIKIAN		Art Unit 2891	
Examiner BAYARD, D.M.			

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
 Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number **41,500**

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Louis Herzberg

Signature

LOUIS HERZBERG

Typed or printed name

845-352-3194

Telephone number

July 31, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Serial No.: 09/933,625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Applicants:

Bisdikian et al

Serial No.: 09/933,625

Filed: August 21, 01

Date: July 12, 2007

Group Art Unit: 2141

Examiner: Bayard, Djenane M

Docket No: YOR920010520US1

For: PERVASIVE, PERSONAL DATA INTERACTIVITY OVER VOICE-GRADE
CIRCUIT-SWITCHED CELLULAR NETWORKS

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRE-APPEAL BRIEF CONFERENCE REQUEST

and

CERTIFICATION OF ELECTRONIC TRANSMISSION and FEE

Sir:

In accordance with OG Notice of 12 July 2005, applicants requests a pre-appeal brief review for the reasons stated in the following remarks appearing on page 2 of this paper.

I hereby certify that this paper is being electronically transmitted to the Patent and Trademark Office on the date shown above.

Please charge any fee necessary to enter this paper and the 'Notice of Appeal' to deposit account 50-0510.

_____/Louis Herzberg/_____

Louis Herzberg, Reg. No. 41,500

REMARKS

Claims 1-37 are pending in the present application.

1. Claim rejections under 35 U.S.C. §112: Claims 1 and 3 were amended to overcome the rejections under 35 U.S.C. §112 and provide sufficient antecedent basis for the limitations.
2. Claims 1-2, 27-37 were rejected under 35 USC. 103(a) as being unpatentable over U.S. Patent No. 7,092699 to Hefter in view of U.S. Patent No. 6,735619 to Sawada.
3. Claims 3-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent No. 7,092699 to Hefter in view of U.S. Patent No. 6,735719 to Sawada as applied to claims 1 above, and in further in view of U.S. Patent No. 6,988070 to Kawasaki et al.

The invention in Claims 1-37 is directed to the field of telephone networks, and more particularly to cellular telephony as a means for remotely accessing and/or manipulating information and processes. It claims a service interaction method (and a corresponding system) for a user interacting with at least one remote service accessible through a home data distribution network. The home data distribution network includes an aggregation of at least one communications media and at least one communications protocol used to access the at least one remote service from a serving entity. Accessing devices at home via public switched telephone networks (PSTNs) was possible before the present invention. For example, it was possible for people to access their answering machine using, say, a pay phone. However, a drawback for such purely telephony-based access to home devices was the limited, if any, capabilities possible in providing “feedback” or status information. It was thus desirable to facilitate the use of visual means and in particular textual and graphics means to greatly enhance user experience in remotely accessing and controlling home devices. Furthermore, as intelligent homes, where the use of computer enabled operations in homes allowed them to adapt automatically to changing conditions (e.g., a persons presence at certain locations, lighting and environmental conditions, and so on) were becoming common place, there was a rising need that computerized services as a whole become remotely accessible rather than just being individual devices and/or appliances.

The present invention addressed the above needs by developing a solution requiring minimal infrastructure changes. It considers the use of mobile Web-phones that operate over traditional circuit-switched cellular networks, like 2nd generation GSM networks, that serve as wireless extensions to regular (wireline) PSTN. This is useful in a Web-phone dial-in to a home server, which is present in popular computer operating systems such as Microsoft Windows, and provides access to services at the home which are connected to the server through a home distribution network. As services (and devices) at home have the ability to connect to different networks, (e.g. home appliances may connect to via an X10 or IEEE 1394 network to a corresponding controller unit) while more elaborate computer-based services may connect via a wireline or wireless local area network (LAN). Thus, accessing appliances and services in a unified manner requires that the home server (or more general the “serving entity” in the present invention) provide access to multiple networks and make use of various communications protocols used over these networks. Applicants respectfully state that Claims 1-2, 27-37 are apparently not made obvious by the invention of Hefter and Sawada. The present invention, claimed in Claims 1-2, 27-37, provides methods and apparatus for accessing and controlling services, such as home automation services, visually employing established wireless, cellular telecommunication technologies for voice communications. In example embodiments, users of personal portable devices connect to services

over dial-up, wireless, cellular, circuit-switched voice telephone networks, receive and display listings of available services and use these listings to access and manipulate the services.

The referenced cited art to Hefter, US Patent 7,092,699, is entitled: "Seamless wireless phone access service." The other referenced art cited to Sawada, US Patent 6,735,619, is entitled: "Home network gateway apparatus and home network device". Hefter is concerned with synchronizing the memory of a wireless telephone with a networked computer over a wireless link. Sawada is concerned with providing a home network gateway apparatus controls information of home network devices connected to an IEEE 1394 bus in a unified manner in a household. The combined references are not concerned with the enabling of remote control of services at a residential network without the necessity of a service provider as in claims 1-37.

Furthermore, there is apparently no reason to make the combination of Hefter and Sawada except in an effort to apparently use hindsight in an attempt to find and/or make all the elements of Claims 1-2, 27-37 obvious. In order to make a combination, at least one of the references in the combination must cite the other. One would not combine an invention of Hefter in primary US Class **455/414.1** with the invention of Sawada in primary US Class **709/212**. Besides even when combined the combination does not teach, allude to or make obvious the presently claimed invention in Claims 1-2, 27-37. There is apparently no reason to introduce Kawasaki to combine with Hefter and Sawada except using hindsight. The art to Kawasaki, US Patent 6,988,070, filed: May 11, 2001, is entitled: "Voice control system for operating home electrical appliances". But even the combination does not make the inventions of claims 3-26 obvious. In reviewing the cited alleged prior art, Hefter is concerned with synchronizing the memory of a wireless telephone with a networked computer over a wireless link. Sawada is concerned with providing a home network gateway apparatus controls information of home network devices connected to an IEEE 1394 bus in a unified manner in a household. Kawasaki is concerned with providing access to home appliances using voice commands. It is apparent that the cited prior art is motivated by and addresses entirely different application spaces requiring persons with diverse expert skills. Hence, applicants find no reason to make the combination of the cited prior art except in an effort to use hindsight in an attempt to find and/or make all the elements of our invention obvious. To the contrary, it is applicants' belief that the differences between our invention and the prior art are such that the invention as a whole would not have been obvious at the time the invention was made to a person having ordinary skill in the art.

More specifically, the cited prior art fails to teach or make obvious a service interaction method (and a corresponding system) comprising a user interacting with at least one remote service accessible through a home data distribution network. Sawada, is concerned with a home network gateway apparatus, teaches connecting to at least one device via a home network, however, it does not teach, allude to or make obvious interaction with a service, where service represents a high-level construct that is not tied to any specific device or appliance (appliances is the subject of concern in Kawasaki et al., while Hefter addresses a totally different topic than connecting to devices or appliances). As an example, an environmental control service may not only relate to adjusting the HVAC (heat, ventilation, and AC) at a home, but depending on the time of day, the weather conditions (sunny, cloudy, etc.), and so on, adjusting window openings, window curtain coverage, and so on.

It is alleged that accessing services as opposed to devices (or appliances), represent equivalent concepts and that the former is made obvious by the latter to a person with ordinary skill in the art. However, applicants respectfully disagree with such a position and it is applicants' belief that the former is not alluded to or made obvious (and certainly not taught) by the cited combined art. In particular, there is no reason to assume that there exists a one-to-one correspondence between a service and a device. While devices provide (some form of) services, a single service can be implemented across multiple devices, as exemplified by the aforementioned environmental control service. For different types of services, like in one that relates to home theater entertainment, which may even interact over the Internet with, say, on-line video-on-demand servers and libraries to select the movie to watch through the home theater service – in other words, the location, type, ownership, and so on, of the devices supporting the service becomes immaterial. It thus becomes advantageous that in accessing such services, to hide from the users all the elemental components of the service. Services should not have to expose to users the devices that support the users, but services need only expose the functions available through them. For this reason, it is noted that the provision of access to a device as in the present claims, is a fundamentally different concept from that of providing access to a service. The cited alleged prior art that considers accessing a device or an appliance does not teach, allude to, or make obvious the concept of services that can exist across multiple devices that need to be accessed as their own distinct entities rather than as the result of an aggregation of controls targeting individual devices. Therefore, the cited prior concerned with accessing devices does not make obvious the ramifications of accessing services instead.

Furthermore the combined cited prior art fails to teach the use of a home data distribution network comprising an aggregation of at least one communications media and at least one communications protocol to access the services from a serving entity. Sawada is concerned with a home network comprised of simple IEEE 1394 enabled devices, like a lamp or a camera, while Kawasaki does not specify the nature of the home network, however fig. 2 and 5 in Kawasaki imply the use of a single communication interface for the in-house network and hence the use of a single communication medium and protocol. Concerned with an application context that is entirely different than in our invention, Hefter's home network is a single local area network.

The claimed step of “employing only one of a cellular voice network and a PSTN, said user connecting to a serving entity attached to said home data distribution network using a client device attached to a wireless, circuit-switched, voice telephony network,” is a step that is required for connecting the personal mobile (or client) device to the serving entity for services accessed through the home distribution network. Nevertheless, within the context of the presently claimed invention, the use of these networks is very distinct from that which is in the cited art. Specifically, Hefter, who the Examiner uses to invalidate this step of our invention, may indeed allude to use of a wireless network and a PSTN network, however, Hefter in general and especially in the portion cited by the examiner (col. 4, lines 43-54, col. 9, lines 34-54) does not teach, allude to or make obvious the use of these networks for “connecting to a serving entity attached to said home data distribution network,” as claimed.

The claimed steps of “obtaining and viewing a list of at least one remote service from accessible remote services from said serving entity accessible remotely via said home network from said serving entity using at least one of said communications media and one of said communications protocols; selecting said at least one remote service from said list; selecting said at least one communications media and at least one communications protocol that said at least one remote service uses; and accessing and viewing said at least one remote service in obtaining desired results” is not taught, alluded to or made obvious by the prior art as they are not concerned with services as explained earlier. Furthermore prior art does not teach, allude to or make obvious the use of home distribution networks that comprise of multiple networks which in turn introduces the need of selecting a communications media and protocol in order to access the selected service(s). Finally, none of the cite prior art teaches, alludes to, or makes obvious “accessing and viewing said at least one remote service in obtaining desired results.” More specifically, in the portion of Sawada cited by the examiner for invalidating the claimed step of “obtaining and viewing a least one remote service from accessible remote services from said serving entity accessible remotely via said home network from said serving entity using least one of said communications media and one of said communications protocols” (col. 1, lines 39-43, col. 2, lines 16-50), no mention is made to accessing services from a serving entity using at least one communication medium and protocol, and none of these aspects of our invention are taught, alluded to, or made obvious by Sawada. Likewise, in the portion of Sawada cited by the examiner for invalidating the steps of “selecting said at least one communications media and at least one communications protocol that said at least one remote service uses; and accessing and viewing said at least one remote service in obtaining desired results” (col. 4, lines 45-56) no mention is made to selecting at least one of communications media and communication protocol, and this aspect of our invention is not taught, alluded to, or made obvious by Sawada. Even more so, none of the cited prior art teaches, alludes to, or makes obvious “obtaining desired results.” Prior art, Kawasaki for instance, uses an audible feedback through a speaker to confirm that a command spoken to a microphone has been received by the system considered. However, such form of “intermediate” feedback is fundamentally different that viewing whether the desired “end” results are obtained, which is the result of not only receiving a command from the end-user, but further processing it and instructing the appliance or device to perform the desired operation (e.g., turn-on a light). Even in this case, the question will still remain as to whether the light is eventually turned on, which may not for any number of reasons, e.g., the light-bulb was burned. Note that were we to consider a “home light service” instead, it would had been easy to consider the case that the closed-circuit TV system in the house is an integral part of the service and it can be used to provide a visual verification that the service produced the desired result, and do so without the need for the user to explicitly requesting the CCTV to provide a video feed from the room where the light were to be turned on. This also shows a fundamental difference of providing access to a device, as the prior art teaches, as opposed to providing access to a service.

For at least the above reasons, applicants believe that the invention claimed in claims 1-37, is distinct from the cited prior art. Therefore applicants respectfully request that the Examiner withdraw the rejections and allow claims 1-37.

Respectfully submitted,
By: ____/Louis Herzberg/____, Reg. No. 41,500